

FILED

2009 JUL 30 P 4:58

IAFD  
MALCOLM P. LAVERGNE, ESQ.  
Nevada Bar No. 10121  
THE LAVERGNE LAW GROUP  
320 East Charleston Boulevard, Suite 203  
Las Vegas, Nevada 89104  
702.448.7981 / 702.966.3117 (Facsimile)  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual,

Case No.  
Dept.

Plaintiffs,

vs.

NOTEWORLD, LLC, a Foreign Limited Liability  
Company; SALVADOR RODRIGUEZ, an  
Individual; DOES I - X, Inclusive; and ROE  
Corporations I - X, Inclusive,  
Defendants.

A09 596386-C  
IX

INITIAL APPEARANCE FEE DISCLOSURE (NRS CHAPTER 19)

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are  
submitted for parties appearing in the above entitled action as indicated below:

Plaintiff- Mark Bernstein

☒ \$250.00

☐ Total of Continuation Sheet Attached

TOTAL REMITTED: (Required)

\$250.00

DATED this 30 day of July, 2009.

A-09-596386-C  
290837



MALCOLM P. LAVERGNE, ESQ.  
Nevada Bar No. 10121  
Attorneys for Plaintiff

JUL 30 2009

**ORIGINAL****FILED****COMP**

MALCOLM P. LAVERGNE, ESQ.

Nevada Bar No. 10121

**THE LAVERGNE LAW GROUP**

320 East Charleston Boulevard, Suite 203

Las Vegas, Nevada 89104

702.448.7981 / 702.966.3117 (Facsimile)

Attorney for Plaintiff

2009 JUL 30 P 4: 58

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual,

Plaintiffs,

vs.

NOTEWORLD, LLC, a Foreign Limited Liability

Company; SALVADOR RODRIGUEZ, an

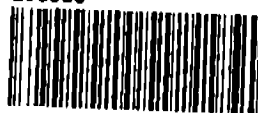
Individual; DOES I - X, Inclusive; and ROE

Corporations I - X, Inclusive,

Defendants.

Case No.

Dept.

Exempt From Arbitration  
(Title to Real Estate)A-09-596386-C  
290836**COMPLAINT TO QUIET TITLE TO REAL PROPERTY**

COMES NOW, Plaintiff MARK BERNSTEIN ("Plaintiff" or "Bernstein"), by and through his attorney MALCOLM P. LAVERGNE, of THE LAVERGNE LAW GROUP, and for his Complaint to Quiet Title to real Property against Defendants, alleges the following:

1. At all relevant times, Plaintiff MARK BERNSTEIN was and is a resident of the State of Nevada, County of Clark, and is the owner in fee simple of the property located at 2517 East Tonopah Avenue, Las Vegas, Nevada 89030 ("Tonopah Property").

2. At all relevant times, Defendant NOTEWORLD, LLC was and is a Foreign Limited Liability Company doing business in the State of Nevada, County of Clark.

///

///

JUL 30 2009

1           3.     At all relevant times, Defendant SALVADOR RODRIGUEZ was and is a  
2 resident of Santa Barbara, California and lives at 1004 Cima Linda Lane, Santa Barbara,  
3 California, 93108.

4           4.     Upon information and belief, Defendants DOES I – X are individuals or  
5 entities involved in the conduct alleged herein; that Plaintiff has been unable to ascertain the  
6 identities of these individuals or entities and, therefore, sues them under fictitious names; that  
7 when their true identities are known, Plaintiff will expeditiously seek leave to amend the  
8 Complaint with the true identities.

9           5.     Upon information and belief, Defendants ROE Corporations I – X are  
10 involved in the conduct alleged herein; that Plaintiff has been unable to ascertain the  
11 identities of these corporations and, therefore, sues them under fictitious names; that when  
12 their true identities are known, Plaintiff will expeditiously seek leave to amend the Complaint  
13 with the true identities.

14           6.     On or around July 1, 1980 Plaintiff became the owner in fee simple of the  
15 Tonopah Property.

16           7.     On or around July 1, 1980, Plaintiff secured a note by deed of trust with  
17 Sycamore Properties in the amount of \$9,140.98.

18           8.     On or around July 1, 1980, Plaintiff additionally secured a note by deed of  
19 trust with Sycamore Properties in the amount of \$4,600.00.

20           9.     In or around 2001, Sycamore Properties became a defunct company in the  
21 State of Nevada.

22           10.    On or around June 22, 1994, the deeds of trust related to both notes passed to  
23 Defendant Salvador Rodriguez.

24           11.    The notes on the Tonopah Property are serviced by Defendant Noteworld.  
25

1           12. The note for \$9,140.98 is known to Defendant Noteworld as Account No.  
2 300020095001053.

3           13. The note for \$4,600 is known to Defendant Noteworld as Account No.  
4 300020095001054.

5           14. In or around 2004, Plaintiff became sole owner of the Tonopah Property.

6           15. In around April 2008, Plaintiff completed his payments and was paid in full on  
7 both notes, Account No. 300020095001053 and Account No. 300020095001054.

8           16. Mr. Bernstein made his payments to Defendant Noteworld rigorously and on-  
9 time throughout the history of the note payments.

10           17. In or around 2008, Defendant Noteworld began sending Plaintiff notices of  
11 late fees that dates back to January 10, 2000.

12           18. Defendant Noteworld never informed Plaintiff his payments were allegedly  
13 late and that late fees were accruing from on or around January 10, 2000 to the present until  
14 in or around 2008.

15  
16                           FIRST CAUSE OF ACTION  
17                           (Quiet Title Pursuant to NRS 40.010)

18           19. Plaintiff repeats and re-alleges each and every allegation contained in  
19 paragraphs "1" through "18" as if fully set forth herein. Plaintiff further alleges:

20           20. Plaintiff has been the owner in fee simple of the Tonopah Property since on or  
21 around July 1, 1980.

22           21. On or around July 1, 1980, Plaintiff secured a note by deed of trust with  
23 Sycamore Properties in the amount of \$9,140.98.

24           22. On or around July 1, 1980, Plaintiff additionally secured a note by deed of  
25 trust with Sycamore Properties in the amount of \$4,600.00.

23. In around April 2008, Plaintiff completed his payments and was paid in full on both notes.

24. Plaintiff requests that the titles to both real properties are resolved by this court through a trial on the merits, pursuant to NRS 40.010.

25. Plaintiff has been required to retain an attorney to represent him for this action, and, therefore, Plaintiff is entitled to his reasonable attorney's fees from Defendants.

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1. That the Court determine the adverse claims of the properties pursuant to NRS 40.010;
2. That the Defendants pay Plaintiffs' reasonable attorney's fees; and
3. For any such further additional relief as the Court may deem just and proper.

Dated this 30 day of July, 2009.

MALCOLM P. LAVERGNE, ESQ.  
Nevada Bar No. 10121  
THE LAVERGNE LAW GROUP  
320 East Charleston Boulevard, Suite 203  
Las Vegas, Nevada 89104  
702.448.7981 / 702.966.3117 (Facsimile)  
Attorneys for Plaintiff

## VERIFICATION

1 STATE OF NEVADA )

2 )

ss:

3 COUNTY OF CLARK )

4 MARK BERNSTEIN, under the penalties of perjury, being first duly sworn, deposes  
and says:5 That I am an individual Plaintiff in this action; that I have read the foregoing  
6 Complaint, and I know the contents thereof; that the same is true of my own knowledge,  
except for those matters therein contained stated upon information and belief, and as to those  
7 matters, I believe them to be true.

8 I declare under the penalty of perjury that the foregoing is true and correct.

9 EXECUTED this 30<sup>th</sup> day of July, 2009.10  
11   
12 MARK BERNSTEIN  
13  
14  
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16  
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19  
20  
21  
22  
23  
24  
25

ORIGINAL

AFFT  
MALCOLM P. LAVERGNE, ESQ.  
Nevada Bar No. 10121  
THE LAVERGNE LAW GROUP  
320 East Charleston Boulevard, Suite 203  
Las Vegas, Nevada 89104  
702.448.7981 / 702.966.3117 (Facsimile)  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual,  
Plaintiffs,

vs.

NOTEWORLD, LLC, a Foreign Limited Liability  
Company; SALVADOR RODRIGUEZ, an  
Individual; DOES I - X, Inclusive; and ROE  
Corporations I - X, Inclusive,  
Defendants.

Case No. A-09-596386-C  
Dept. 9

A-09-596386-C  
443096



AFFIDAVIT OF SERVICE

STATE OF WASHINGTON  
COUNTY OF PIERCE ss:

1. KLAUS G. ELLIOTT being duly sworn, says: That at all times herein,  
affiant was and is a citizen of the United States, over 18 years of age, not a party to, nor  
interested in, the proceeding in which this affidavit is made.

2. That affiant received one copy of the Summons and Complaint on the 28<sup>th</sup>  
day of SEPTEMBER 2009.

///

///

///

1           3.     That on the 29 day of SEPTEMBER, 2009, I served the aforementioned  
2 documents on Noteworld, LLC, by delivering and leaving a copy of the documents with  
3 LAW OFFICES OF  
4 JAMES KRUEGER who is authorized to accept service on behalf of Noteworld,  
5 LLC, at 1001 Pacific Avenue, #200, Tacoma, Washington 98402.

6           4.     I declare under the penalty of perjury that that foregoing is true and correct.

7 Executed this 1<sup>st</sup> day of OCTOBER, 2009.

8   
9 PROCESS SERVER



ORIGINAL

## SUMM

MALCOLM P. LAVERGNE, ESQ.

Nevada Bar No. 10121

THE LAVERGNE LAW GROUP

320 East Charleston Boulevard, Suite 203

Las Vegas, Nevada 89104

702.448.7981 / 702.966.3117 (Facsimile)

Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual,

Plaintiffs,

vs.

NOTEWORLD, LLC, a Foreign Limited Liability

Company; SALVADOR RODRIGUEZ, an

Individual; DOES I - X, Inclusive; and ROE

Corporations I - X, Inclusive,

Defendants.

Case No.

Dept.

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IX

## SUMMONS

A-09-596386-C

443098



NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN TWENTY (20) DAYS. READ THE INFORMATION BELOW.

TO DEFENDANT NOTEWORLD, LLC: A civil complaint has been filed by the Plaintiff against you for the relief set forth in the complaint.

1. If you intend to defend this lawsuit, within twenty (20) days after this Summons is served on you, exclusive of the day of service, you, must do the following:
  - a. File with the Clerk of this Court a formal written response to the Complaint in accordance with the rules of this Court;
  - b. Serve a copy of your response upon the attorney whose name and address is shown above.
2. Unless you respond, your default will be entered upon application of the Plaintiff and this Court may enter a judgment against you for the relief demanded in the complaint, which could result in the taking of money or property or other relief requested in the complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at the direction of:  
MALCOLM P. LAVERGNE, ESQ.

Attorney for Plaintiff

Clerk of the Court  
200 South 3rd Street, Las Vegas, NV 89155

By:

Deputy Clerk

JUL 30 2009

Date  
TERRI STRINGER

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FILED  
OCT 20 2009  
CLERK OF COURT

IAFD  
David B. Sanders, Esq. (7895)  
Huong X. Lam, Esq. (10916)  
THE COOPER CASTLE LAW FIRM, LLP  
820 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
(702) 435-4175 Telephone  
(702) 877-7424 Facsimile  
E-Mail: [HLam@CCCFirm.com](mailto:HLam@CCCFirm.com)  
*Attorneys for Defendant*  
*Noteworld, LLC*

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual )

Plaintiff, )

vs. )

NOTEWORLD, LLC, a Foreign Limited )  
Liability Company; SALVADOR )  
RODRIGUEZ, an Individual; DOES I - X, )  
Inclusive; and ROE Corporations I - X, )  
Inclusive, )  
Defendants. )

Case No. A-09-596386-C

Dept. No. IX

INITIAL APPEARANCE FEE  
DISCLOSURE

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above-entitled action as indicated below:

NOTEWORLD, LLC

\$270.00

Total Remitted:

\$270.00

DATED this 19 day of October, 2009.

THE COOPER CASTLE LAW FIRM, LLP

David B. Sanders, Esq. (7895)  
Huong X. Lam, Esq. (10916)  
820 S. Valley View Boulevard  
Las Vegas, NV 89107  
(702) 435-4175 Telephone  
*Attorneys for Defendant*  
*Noteworld, LLC*

A - 09 - 596386 - C  
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Phone (702) 435-4175 o Fax (702) 877-7424

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OCT 20 2009

CLERK OF THE COURT

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David B. Sanders, Esq.  
Nevada State Bar No. 7895  
Huong X. Lam, Esq.  
Nevada State Bar No. 10916  
THE COOPER CASTLE LAW FIRM, LLP  
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(702) 877-7424 Facsimile  
E-Mail: [HLam@CCFirm.com](mailto:HLam@CCFirm.com)  
*Attorneys for Defendant*  
*Noteworld, LLC*

FILED  
OCT 20 2009  
CLERK OF COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual

Plaintiff,

vs.

NOTEWORLD, LLC, a Foreign Limited  
Liability Company; SALVADOR  
RODRIGUEZ, an Individual; DOES I - X,  
Inclusive; and ROE Corporations I - X,  
Inclusive,  
Defendants.

Case No. A-09-596386-C

Dept. No. IX

Date: November 24, 2009

Time: 9:00 a.m.

A - 09 - 596386 - C  
472150



**DEFENDANT NOTEWORLD, LLC'S MOTION TO DISMISS**  
**OR IN THE ALTERNATIVE; MOTION FOR SUMMARY JUDGMENT**

COMES NOW Defendants, NOTEWORLD, LLC (hereinafter "Noteworld") by and through its counsel of record, THE COOPER CASTLE LAW FIRM, LLP, and hereby moves this Court pursuant to NRCP 12(b)(5) for an Order Dismissing With Prejudice each and every cause of action alleged against Defendant or in the alternative, for summary judgment pursuant to NRCP 56.

This Motion is made and based upon the attached Memorandum of Points and Authorities, the pleadings and papers on file herein, and any argument of counsel the court may consider at the hearing of this Motion.

THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 o Fax (702) 877-7424

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CLERK OF THE COURT

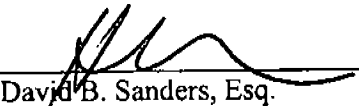
**NOTICE OF MOTION**

TO: ALL PARTIES OF INTEREST

PLEASE TAKE NOTICE that on the 24<sup>th</sup> day of November, 2009, at the hour of 9:00 a.m., in Department 9, or as soon thereafter as counsel may be heard, the undersigned will bring the foregoing Motion for hearing before the above-referenced Court.

Dated this 19 day of October, 2009.

THE COOPER CASTLE LAW FIRM, LLP

  
 David B. Sanders, Esq.

Nevada State Bar No. 7895

Huong X. Lam, Esq.

Nevada State Bar No. 10916

820 S. Valley View Boulevard

Las Vegas, NV 89107

(702) 435-4175 Telephone

*Attorneys for Defendant**Noteworld, LLC***POINTS AND AUTHORITIES****A. Brief Summary**

This matter deals with real property located in Las Vegas, Nevada, commonly known as 2517 E. Tonopah Ave., N. Las Vegas, NV 89030, APN 139-24-410-005 (hereinafter the "Property"). The Property was purchased on or about July 1, 1980 by Plaintiff MARK BERNSTEIN ("Plaintiff" or "Bernstein") and his then wife, Karen Bernstein from Sycamore Properties. (See Exhibit A). The Note on the loan was secured by first and second Deeds of Trusts, dated July 1, 1980, executed by Bernstein and his then wife, Karen Bernstein. (See Exhibit B). The first and second Deeds of Trusts were recorded on July 9, 1980 as Instrument No. 1209825 in Book 1250, and Instrument No. 1209826 in Book 1250 in the Official Records in the County Recorder's Office of Clark County, Nevada. (See Exhibit C).

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 Phone (702) 435-4175 o Fax (702) 877-7424

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Phone (702) 435-4175 • Fax (702) 877-7424

1 On or about June 13, 1994, the first and second Deeds of Trusts were assigned to  
2 Salvador Rodriguez. The Assignments of the first and second Deeds of Trusts were recorded  
3 on June 22, 1994 at Instrument No. 199406220001554 and Instrument No. 199406220001555.  
4 (See Exhibit D). On or about July 30, 2009, Bernstein filed the instant lawsuit for Quiet Title  
5 pursuant to NRS 40.010. Upon service of the Complaint, Noteworld contacted counsel for  
6 Bernstein and requested voluntary dismissal from the case because Noteworld "makes no claim  
7 to possession – in full or in part – to the properties at issue." (See Exhibit E). Despite this  
8 request, Noteworld was not dismissed from this case and as a consequence, has had to retain  
9 counsel and incur fees and costs to defend this matter.

10 **B. Legal Standard for A Motion to Dismiss**

11 Plaintiff Bernstein's Complaint failed to state a cause of action upon which relief may  
12 be granted. NRCP 12(b)(5) states that a complaint may be dismissed for failure to state a  
13 claim. In the case of *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 S.Ct. 1683, 1686, 40 L.Ed.2d  
14 90, 96 (1974), the Court stated that "when a court reviews the sufficiency of a complaint the  
15 issue is whether the claimant is entitled to offer evidence to support the claims." The sole  
16 issue is whether the allegations set forth a claim for relief. *Vacation Village, Inc. v. Hitachi*  
17 *America, Ltd.*, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994). Dismissal is proper if it appears  
18 beyond a doubt that the non-moving party could prove no set of facts, which if accepted by the  
19 trier of fact, would entitle him or her to relief. *Simpson v. Mars Inc.*, 113 Nev. 188, 190, 929  
20 P.2d 966, 967 (1997); see also *Zalk-Josephs Co. v. Wells-Cargo, Inc.*, 81 Nev. 163, 400 P.2d  
21 621 (1965). Even bearing in mind that the burden on the movant bringing a motion to dismiss  
22 is high, it is still proper in the instant case.

23 Pursuant to NRCP 12(b), this motion to dismiss shall be treated as one for summary  
24 judgment and disposed of as provided in Rule 56 because extrinsic evidence is attached.

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Phone (702) 435-4175 o Fax (702) 877-7424

1 NRCP 56(c) provides in pertinent part as follows:

2 Motion and proceedings thereon. The motion shall be served  
3 at least 10 days before the time fixed for the hearing. The  
4 judgment sought shall be rendered forthwith if the pleadings,  
5 depositions, answers to interrogatories, and admissions on file,  
6 together with the affidavits, if any, show that there is no  
7 genuine issue as to any material fact and that the moving party  
8 is entitled to a judgment as a matter of law....

9 Nevada Rule of Civil Procedure 56(c) establishes that summary judgment is appropriate  
10 when the pleadings and evidence demonstrate no genuine material issue remains to be decided,  
11 and the moving party is entitled to judgment as a matter of law. *Tucker v. Action Equip. &*  
12 *Scaffold Co.*, 113 Nev. 1349, 1353, 951 P.2d 1027, 1029 (1997).

13 The Supreme Court of Nevada articulated that the disfavored and now defunct  
14 "slightest doubt" standard in Nevada is a departure from the clear language as well as the spirit  
15 and intent of Rule 56(c). *Wood v. Safeway, Inc.*, 121 P.2d 1026 (2005). Rather, the summary  
16 judgment standard is derived from the well-established trinity of federal cases. *See Celotex v.*  
17 *Caltrett*, 477 U.S. 317, 323 (1986) ("mandates the entry of summary judgment, after adequate  
18 time for discovery and upon motion, against a party who fails to make a showing sufficient to  
19 establish the existence of an element essential to that party's case, and on which that party will  
20 bear the burden of proof at trial"); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)  
21 (opposition to a motion for summary judgment must be supported by specific facts, not bald  
22 assertions or denials); and *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574,  
23 587 (1985) ("where the record taken as a whole could not lead a rational trier of fact to find for  
24 the non-moving party, there is no 'genuine issue for trial'").

25 As a practical matter, Nevada law will not allow the opposing party to make a case "on  
26 gossamer threads of whimsy, speculation and conjecture." *Pegasus v. Reno Newspapers, Inc.*,  
27 118 Nev. 706, 713-14, 57 P.3d 82, 87 (2002) (quoting *Posadas v. City of Reno*, 109 Nev. 448,

1 452, 851 P.2d 438, 442 (1993)). Furthermore, summary judgment may be entered when one of  
2 the *prima facie* elements is "clearly lacking as a matter of law." *Doud v. Las Vegas Hilton*  
3 *Corporation*, 109 Nev. 1096, 864 P.2d 796 (1993).

4 Here for the reasons set forth below, a reasonable finder of fact could not return a  
5 verdict in favor of Bernstein. Noteworld was merely the servicer of the loan and makes no  
6 claim to title to the property. As such, Noteworld is entitled to a dismissal with prejudice or  
7 alternatively, summary judgment on Bernstein's Quiet Title claim as a matter of law.

8 **C. Plaintiff Bernstein's Cause of Action for Quiet Title is Foundationally**  
9 **Flawed and Fails to State a Valid Claim Upon Which Relief Can Be**  
10 **Granted.**

11 Nevada Revised Statute 40.010 sets forth the standard whereby actions may be brought  
12 against adverse claimants to determine conflicting claims to real property. NRS 40.010  
13 provides that "[a]n action may be brought by any person against another who claims an estate  
14 or interest in real property, adverse to him, for the purpose of determining such adverse claim."

15 In this case, Noteworld makes no claim to possession or interest to the Property. While  
16 Noteworld disputes the assertions that Bernstein made timely payments or had completed  
17 payment under the terms of the first and second Deeds of Trusts, Bernstein's **quiet title** action  
18 against Noteworld is simply erroneous. Dismissal with prejudice is proper because Bernstein  
19 cannot prove any set of facts, which even if accepted by this Court, would entitle him to relief  
20 for quiet title against Noteworld.

21 Additionally, summary judgment is appropriate in this matter because the pleadings and  
22 evidence demonstrate no genuine material issue remains to be decided. Noteworld is entitled  
23 to judgment as a matter of law. *Tucker* at 1349, 1029. Bernstein is merely attempting to make  
24 a case "on gossamer threads of whimsy, speculation and conjecture." *Pegasus v. Reno*

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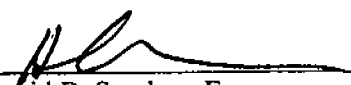
1 *Newspapers, Inc.*, 118 Nev. 706, 713-14, 57 P.3d 82, 87 (2002) (quoting *Posadas v. City of*  
2 *Reno*, 109 Nev. 448, 452, 851 P.2d 438, 442 (1993)).

3 **D. Conclusion**

4 Based on the foregoing, Defendant Noteworld respectfully requests this Court to  
5 dismiss with prejudice Plaintiff Bernstein's claim for quiet title pursuant to NRCP 12(b)(5), or  
6 alternatively, grant summary judgment in favor of Defendant Noteworld on Plaintiff's claim. It  
7 is further requested that Defendant be awarded attorneys' fees and costs for having to defend  
8 this case and to submit this motion.

9 DATED this 19 day of October, 2009.

10 THE COOPER CASTLE LAW FIRM, LLP

11   
12 David B. Sanders, Esq.  
13 Nevada State Bar No. 7895  
14 Huong X. Lam, Esq.  
15 Nevada State Bar No. 10916  
16 820 S. Valley View Boulevard  
17 Las Vegas, NV 89107  
18 (702) 435-4175 Telephone  
19 Attorneys for Defendant  
20 Noteworld, LLC  
21  
22  
23  
24

THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 o Fax (702) 877-7424



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of THE COOPER CASTLE LAW FIRM, LLP, and that on the 10<sup>th</sup> day of October, 2009, I served a true and correct copy of the DEFENDANT NOTEWORLD, LLC'S MOTION TO DISMISS OR IN THE ALTERNATIVE; MOTION FOR SUMMARY JUDGMENT via First Class US Mail, postage prepaid to the parties listed below.

Malcolm P. LaVergne, Esq.  
The LaVegeer Law Group  
320 East Charleston Blvd., Suite 203  
Las Vegas, NV 89104

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.



An employee of  
THE COOPER CASTLE LAW FIRM, LLP

THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Blvd. Las Vegas, Nevada 89107  
Phone (702) 435-4175 o Fax (702) 877-7424

Exhibit “A”

Exhibit “A”

1250

1209824

**GRANT, BARGAIN, SALE DEED**THIS INDENTURE WITNESSETH: That SYCAMORE PROPERTIES, a Partnership

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, do hereby Grant, Bargain,

Sell and Convey to MARK G. BERNSTEIN AND KARIN BERNSTEIN, husband and wife as joint tenantsall that real property situated in the \_\_\_\_\_ County of CLARK

State of Nevada, bounded and described as follows:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

- SUBJECT TO:
1. Taxes for the fiscal year 1979-1980.
  2. Reservations, restrictions and conditions, if any; rights of way and easements, either of record or actually existing on said premises.
  3. Deed of Trust of record.

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

Witness his hand this 13th day of June, 1980

STATE OF NEVADA  
CLARK  
COUNTY OF \_\_\_\_\_

SS

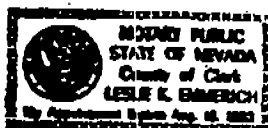
On 7/2/80

personally appeared before me, a Notary Public,  
LOUIE WARNARS

who acknowledged that he executed the above  
instrument.

Signature Loeie Warnars  
(Notary Public)

(Notarial Seal)



SYCAMORE PROPERTIES, a Partnership  
BY: Loeie Warnars

ESCROW NO. ) 8006-60LR  
ORDER NO. )

WHEN RECORDED MAIL TO: MARK & KARIN BERNSTEIN  
c/o 1300 S. Jones, Suite 101, L.V., NV 89102

CLARK COUNTY, NEVADA  
JOAN L. SAFF, RECORDER  
RECORDED & INDEXED

LAND TITLE OF NEVADA  
JUL 9 9 55 AM '80

FEE 3.00 DEPUTY 16  
OFFICIAL RECORDS  
BOOK INSTRUMENT

1250

1209824

300

Exhibit “B”

Exhibit “B”

DO NOT DESTROY THIS NOTE: When paid, this note with Deed of Trust securing same, may be surrendered to Trustee for cancellation by the beneficiary. If not, the beneficiary will be notified.

### Note Secured by Deed of Trust

9, 140 98

Las Vegas

Nevada

July 1

1980

ALL DUE AND PAYABLE ON OR BEFORE SEPTEMBER 1, 1983

Value received, undersigned promise to pay to SYCAMORE PROPERTIES, a Partnership

after date, for

LAS VEGAS, NEVADA OR AS DIRECTED

or order, at

NINE THOUSAND ONE HUNDRED FORTY AND 98/100

the sum of

with interest from July 9, 1980

until paid, at the rate of TWELVE

per cent per

annum, payable monthly beginning September 1, 1980 and continuing until September 1, 1983. If at any time the principal balance of this note is not paid in full, the entire balance of this note shall become due and payable immediately. Payment of any principal or interest on this note is subject to the performance of any obligation contained in the Deed of Trust, by which this note is secured. The whole sum of principal and interest shall become immediately due at the option of the holder hereof. Principal and interest payable in lawful money of the United States. If action be instituted in any Court to enforce any obligation secured by such Deed of Trust, undersigned promise to pay such sum as the Court may fix, as attorney's fees in said action. This note is secured by a DEED OF TRUST, of even date herewith, to HERITAGE TITLE AND ESCROW, Trustee. In the event any payment is made, then 15 days later, a late charge penalty of \$10.00 shall be paid. In the event the Signer herein named shall sell or convey his interest in and to the real property given as security for this note, then in that event payment of this note shall be accelerated and the entire balance of principal and interest shall become immediately due and payable at the option of the beneficiary.

*Karin Bernstein*  
Karin Bernstein

THE COPY BHP-31

DO NOT DESTROY THIS NOTE: When paid, this note with Deed of Trust securing same be returned to Trustee for cancellation & a receipt, a will be made.

04.118

3 2777  
7/1/80

# Note Secured by Deed of Trust

STRAIGHT NOTE

\$ 4,600.00

Las Vegas

Nevada

July 1

1980

ALL DUE AND PAYABLE ON OR BEFORE SEPTEMBER 1, 1983

value received, undersigned promise to pay to

SYCAMORE PROPERTIES, a Partnership

after date, for

LAS VEGAS, NEVADA, OR AS DIRECTED

FOUR THOUSAND SIX HUNDRED AND NO/100

with interest from July 9, 1980

until paid, at the rate of TEN PERCENT

DOLLARS.

annum, payable monthly beginning September 1, 1980, and continuing until September 1, 1983, at which time the entire balance of principal and interest shall be paid. Should interest not be paid by the date of maturity, the holder of this note is secured, the whole sum of principal and interest shall become immediately due at the option of the holder of this note. Principal and interest payable in lawful money of the United States. If notice is instituted in any Court to enforce any obligation secured by such Deed of Trust, undersigned promise to pay such sum as the Court may fix as attorney's fees in said action. This note is secured by a DEED OF TRUST, of even date herewith, to REINSTATE TITLE AND EQUITABLE INTEREST. In the event any payment is made, then it shall be a late charge penalty of \$10.00 shall be paid. In the event the event of default, the undersigned shall have the right to sell or convey his interest in and to the real property given as security for this note, then in that event payment of this note shall be accelerated and the entire balance of principal and interest shall become immediately due and payable at the option of the beneficiary.

*Karin Bernstein*  
KARIN BERNSTEIN

THE COPY B-OP-D-1

Exhibit “C”

Exhibit “C”

BOOK 1250

1209825

THIS DEED OF TRUST, made this 1st day of July, 1920  
between MARK G. BERNSTEIN AND KARIN BERNSTEIN, husband and wife

herein called GRANTOR or TRUSTOR,  
whose mailing address is \_\_\_\_\_

**HERITAGE TITLE AND ESCROW, a NEVADA corporation, herein called Trustee, and  
SYCAMORE PROPERTIES, a Partnership**

herein called BENEFICIARY,  
WITNESSETH THAT WHEREAS Trustor has borrowed and received from Beneficiary in lawful money of the United States the sum of FOUR THOUSAND SIX HUNDRED AND NO/100 (\$4,600.00) DOLLARS, and has agreed to repay the same with interest, to Beneficiary in lawful money of the United States according to the terms of a promissory note of even date herewith executed and delivered thereto by Trustor;

NOW THEREFORE for the purpose of securing such agreement of the Trustor herein contained including payment of the said promissory note, and of any money with interest thereon that may be advanced by or otherwise become due to Trustee or Beneficiary under the provisions hereof and for the purpose of securing payment of such additional sums as may hereafter be advanced for the account of Trustor by Beneficiary with interest thereon, Trustor irrevocably GRANTS AND TRUSTS TO TRUSTEE, IN TRUST WITH POWER OF SALE, all that property in CLARK County, Nevada described as:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

In the event the Grantor herein named shall sell or convey his interest in and to the real property herein described, then in that event payment of the Note secured hereby shall be accelerated and the entire balance of principal and interest shall become immediately due and payable at the option of the Beneficiary.

TOGETHER WITH all appurtenances in which Trustor has any interest, including water rights benefiting said realty whether represented by shares of a company or otherwise, and

TRUSTOR ALSO ASSIGNS to Beneficiary all rents, issues and profits of said realty, reserving the right to collect and use the same until during continuance of some default hereunder and during continuance of such default, authorizing Beneficiary to collect and enforce the same by any lawful means in the name of any party hereto.

TO HAVE AND TO HOLD said property upon and subject to the trusts and agreements herein set forth and incorporated herein by reference. The following covenants, Max 1, 2, 3, 4, 5, 6, 7, 8 and 9 of RES 107.030 are hereby adopted and made a part of this deed of trust, EXCEPT ONLY that the covenants agreed upon by the parties to this instrument with respect to covenants Max 2, 4 and 7 incorporated by reference of such trusts and agreements is respectively as follows: Covenant No. 2, 8; Covenant No. 4; Covenant No. 7. Such provisions so incorporated shall have the same force and effect as though specifically set forth and incorporated verbatim in this deed of trust.

THE UNDERSIGNED TRUSTEE REQUESTS that a copy of any notice of default and any notice of sale hereunder be mailed to him at the address hereinafter set forth.

IN WITNESS WHEREOF, Grantor has executed this instrument.

Signature of Trustor:

Mark G. Bernstein  
MARK G. BERNSTEIN

Karin Bernstein  
KARIN BERNSTEIN

STATE OF NEVADA

COUNTY OF CLARK

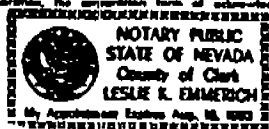
On this 1st day of July, 1920

personally appeared before me, a Notary Public in and for said County, MARK G. BERNSTEIN & KARIN BERNSTEIN

known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntarily for the uses and purposes herein mentioned.

WITNESS my hand and official seal.

(If executed by a corporation, the corporation form of acknowledgment must be used.)  
(NOTARIAL SEAL)



Order No. 8006-60LR When Recorded, Mail to

Land Title

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, CLERK  
RECORDED

LAND TITLE OF NEVADA  
JUL 9 3 55 AM '20

FEE 3W DEPUTY AK  
OFFICIAL RECORDS  
BOOK INSTRUMENT

1250

1209825



BOOK 1250

1209826

THIS DEED OF TRUST, made this 1st day of July, 19 80  
between MARK G. BERNSTEIN AND KARIN BERNSTEIN, husband and wife

herein called GRANTOR or TRUSTOR,  
whose mailing address is \_\_\_\_\_

**HERITAGE TITLE AND ESCROW, a NEVADA corporation, herein called Trustee, and  
SYCAMORE PROPERTIES, a Partnership**

herein called BENEFICIARY,  
TO WITNESS THAT WHEREAS Trustor has borrowed and received from Beneficiary in lawful money of the United States the sum of  
NINE THOUSAND ONE HUNDRED FORTY AND 98/100-----(\$9,140.98)----- DOLLARS,  
and has agreed to repay the same with interest to Beneficiary in lawful money of the United States according to the terms of a promissory note of even  
date herein captioned and delivered thereto by Trustor,

NOW THEREFORE for the purpose of securing such agreement of the Trustor herein contained including payment of the said promissory note  
and of any money with interest thereon that may be advanced by or otherwise become due to Trustor or Beneficiary under the provisions hereof and for  
the purpose of securing payment of such additional sum as may hereafter be advanced for the account of Trustor by Beneficiary with interest thereon,  
Trustor irrevocably GRANTS AND TRANSFERS TO TRUSTEE, IN TRUST WITH POWER OF SALE, all that property in CLARK County,  
Nevada described as:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in  
Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

In the event the Grantor herein named shall sell or convey his interest in and to the real  
property herein described, then in that event payment of the Note secured hereby shall be  
~~accelerated and the entire balance of principal and interest shall become immediately due~~  
and payable at the option of the Beneficiary.

TOGETHER WITH all appurtenances, in which Trustor has any interest, including water rights benefiting said realty whether represented by shares of a  
company or otherwise and  
TRUSTEE ALSO ASSIGNS to Beneficiary all rents, issues and profits of said realty, reserving the right to collect and use the same except during continuance  
of some default hereunder and during continuance of such default, authorizing Beneficiary to collect and enforce the same by any lawful means in the name  
of any party hereto

TO HAVE AND TO HOLD said property upon and subject to the trusts and covenants herein set forth and incorporated herein by reference, the following  
covenants, Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 of NRS 107.030 are hereby adopted and made a part of this deed of trust, EXCEPT ONLY that the covenants agreed upon  
by the parties to this instrument with respect to covenants Nos. 2, 4 and 7 incorporated by reference of such trusts and covenants is respectively as follows:  
Covenant No. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100. Such provisions so incorporated shall  
have the same force and effect as though specifically set forth and incorporated verbatim in this deed of trust.

THE UNDERSIGNED TRUSTOR REQUESTS that a copy of any notice of default and any notice of sale hereunder be mailed to him at the address hereinafter  
set forth.

IN WITNESS WHEREOF, Grantor has executed this instrument.

Signature of Trustor

Mark G. Bernstein  
MARK G. BERNSTEIN

Karin Bernstein  
KARIN BERNSTEIN

STATE OF NEVADA,

COUNTY OF CLARK

On this 1st day of July, 1980

personally appeared before me, a Notary Public in and for said  
County, MARK G. BERNSTEIN AND KARIN BERNSTEIN

known to me to be the person described in and who executed the foregoing  
instrument, who acknowledged to me that he executed the same freely  
and voluntarily and for the uses and purposes herein mentioned.

WITNESS my hand and official seal.

Leslie E. Emmerich  
Notary Public in and for said County and State.

(If executed by a Notary Public, the following acknowledgment must  
be made.)  
(NOTARIAL SEAL)



Order No. \_\_\_\_\_ When Recorded, Mail to \_\_\_\_\_

Land Title  
FD3 503-10  
L. V. NEV.

CLARK COUNTY NEVADA  
JOAN L. SARTY, RECORDER  
RECORDED AT \_\_\_\_\_

LAND TITLE OF NEVADA  
JUL 9 9 55 AM '80

FEE 3.00 DEPUTY 10  
OFFICIAL RECORDS  
BOOK INSTRUMENT

1250 1209826

Exhibit “D”

Exhibit “D”

RECORDING REQUESTED BY

9 4 0 6 2 2 0 1 5 5 4

AND WHEN RECORDED MAIL TO

NAME **HILL & SANDFORD**  
 ADDRESS **800 PRESIDIO AVE**  
 CITY & STATE **SANTA BARBARA CA 93101**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## Assignment of Deed of Trust

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to Salvador Rodriguez, a married man, all beneficial interest under that certain Deed of Trust dated July 1, 1980 executed by Mark G. Bernstein and Karin Bernstein

to Heritage Title and Escrow, Trustor, and recorded as Instrument No. 1209825 on July 9, 1980, in book 1250, page of Official Records in the County Recorder's office of Clark County, Nevada, County, describing land therein as:

Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

### RECORDER'S MEMO POSSIBLE POOR RECORD DUE TO QUALITY OF ORIGINAL DOCUMENT

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Deed of Trust.

Dated June 13, 1994

STATE OF CALIFORNIA } SS.  
 COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_

\_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to the within instrument and acknowledged that \_\_\_\_\_ executed the same.

CASA CARRILLO PROPERTIES, a Partnership

By: Salvador Rodriguez

Salvador Rodriguez, General Partner

Witness: Marcia Gehring  
 MARCIA GEHRINGER

FOR NOTARY SEAL OR STAMP

Title Order No. \_\_\_\_\_ Escrow No. \_\_\_\_\_

**SUBSCRIBING-WITNESS CERTIFICATE (WITNESS SURETY)**

State of California

County of Santa Barbara

On this the 16th day of June 19 94, before me, the undersigned

Notary Public, personally appeared Marcia Gehring

☒ personally known to me **OR** ☐ proved to me on the oath/affirmation of  
NAME OF PERSON (CREDIBLE WITNESS) WHO IDENTIFIED SUBSCRIBING WITNESS who is personally known to me,

to be the person whose name is subscribed to the within instrument as a witness thereto, who, being by me duly sworn, deposes and says that she (he/she) was present and saw

Salvador Rodriguez

NAME OF ABSENT PRINCIPAL SIGNER

the same person described in and whose name is subscribed to the within and annexed instrument as a party thereto, execute the same, and that said affiant subscribed her (his/her) name to the within instrument as a witness at the request of

Salvador Rodriguez

NAME OF PRINCIPAL SIGNER (AGAIN)

SIGNATURE OF NOTARY



**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

TITLE(S)

- ☒ PARTNER(S) ☐ LIMITED  
☒ GENERAL  
☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

ASSIGNMENT OF DEED OF TRUST  
TITLE OR TYPE OF DOCUMENT

ONE  
NUMBER OF PAGES

6-13-94  
DATE OF DOCUMENT

ABSENT SIGNER (PRINCIPAL) IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(ES)  
CASA CARILLO PROPERTIES

None  
SIGNER(S) OTHER THAN NAMED ABOVE

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, RECORDER  
RECORDED AT REQUEST OF:  
HILL & SANDFORD

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, RECORDER  
RECORDED AT REQUEST OF:  
HILL & SANDFORD  
06-22-76 15:21 KAK 3  
BOOK: 940622 INST: 01554  
FEE: 9.00 RPTD: .00

RECORDING REQUESTED BY

9 4 0 6 2 2 0 1 5 5 5

(3)

AND WHEN RECORDED MAIL TO

NAME **HILL & SANDFORD**  
 ADDRESS **800 W PRESIDIO AVE**  
 CITY & STATE **SANTA BARBARA CA 93101**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## Assignment of Deed of Trust

L-43

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to Salvador Rodriguez, a married man all beneficial interest under that certain Deed of Trust dated July 1, 1980 executed by Mark G. Bernstein and Karin Bernstein

to Heritage Title and Escrow, Trustor, and recorded as Instrument No. 1209826 on July 9, 1980, in book 1250, page of Official Records in the County Recorder's office of Clark County, Nevada, Trustee, General.

describing land therein as: Lot Five (5) in Block One (1) of COLLEGE PARK NO. 3, as shown by map thereof on file in Book 4 of Plats, page 49, in the Office of the County Recorder of Clark County, Nevada.

### RECORDER'S MEMO POSSIBLE POOR RECORD DUE TO QUALITY OF ORIGINAL DOCUMENT

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Deed of Trust.

Dated June 13, 1994

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

SS.

On this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_

\_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to the within instrument and acknowledged that \_\_\_\_\_ executed the same.

CASA/CARRILLO PROPERTIES, A Partnership

By Salvador Rodriguez

Salvador Rodriguez, General Partner

Witness: Marcia Gehring

MARCIA GEHRING

FOR NOTARY SEAL OR STAMP

Title Order No. \_\_\_\_\_ Escrow No. \_\_\_\_\_

## SUBSCRIBING-WITNESS CERTIFICATE (2-WITNESS JURAT)

No. 0904

State of CaliforniaCounty of Santa BarbaraOn this the 16th day of June 19 94, before me, the undersignedNotary Public, personally appeared Marcia Gehringer

NAME OF SUBSCRIBING WITNESS

☒ personally known to me - OR - ☐ proved to me on the oath/affirmation of

who is personally known to me,

NAME OF PERSON (CREDIBLE WITNESS) WHO IDENTIFIES SUBSCRIBING WITNESS

to be the person whose name is subscribed to the within instrument as a witness thereto, who, being by me duly sworn, deposes and says that she (he/she) was present and saw

Salvador Rodriguez

NAME OF ABSENT PRINCIPAL SIGNER

the same person described in and whose name is subscribed to the within and annexed instrument as a party thereto, execute the same, and that said affiant subscribed her (his/her) name to the within instrument as a witness at the request of

Salvador Rodriguez

NAME OF PRINCIPAL SIGNER (AFFIANT)

SIGNATURE OF NOTARY



## OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

## CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

TITLE(S)

- ☒ PARTNER(S) ☐ LIMITED  
☒ GENERAL  
☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER:

ABSENT SIGNER (PRINCIPAL) IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

CASA CARREILLO PROPERTIES

## DESCRIPTION OF ATTACHED DOCUMENT

ASSIGNMENT OF DEED OF TRUST

TITLE OR TYPE OF DOCUMENT

ONE

NUMBER OF PAGES

6-13-94

DATE OF DOCUMENT

NONE

SIGNER(S) OTHER THAN NAMED ABOVE

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, RECORDER  
RECORDED AT REQUEST OF:  
HILL & SANDFORD  
06-23-94 15122 HAK 3  
BOOK: 940622 INST: 01055  
FEE: 9.20 RPTD: .00



Exhibit “E”

Exhibit “E”

## NoteWorld Servicing Center

October 9, 2009

VIA FACSIMILE AND MAIL

Mr. Malcolm P. LaVergne, Esq.  
The LaVergne Law Group  
320 East Charleston Boulevard, Suite 203  
Las Vegas, Nevada 89104

Re: Mark Bernstein v. NoteWorld, LLC, *et al.* (Case No. A09596386-C)

Dear Mr. LaVergne:

I am in receipt of the Summons and Complaint filed in the District Court Clark County, Nevada, Case No. A09596386-C by your client, Mr. Mark Bernstein.

After reviewing the allegations and claims for relief set forth in the Complaint, I was somewhat perplexed; most notably, by the allegations contained in Paragraph 15. Contrary to the allegations set forth therein, our records reflect that Mr. Bernstein has not "completed his payments" or "paid in full" either note (Account No. 300020095001054 or Account No. 300020095001053). In fact, he continued to make regular monthly payments for the entire period of April 2008 through July 2009 on both accounts. The last payments received from Mr. Bernstein were recorded on July 27, 2009.

As an initial matter, NoteWorld makes no claim to possession – in full or in part – to the properties at issue. Therefore, your client's quiet title claim against NoteWorld is erroneous. Second, because your client has not satisfied the terms of either note by rendering payment in full, his quiet title action is generally faulty. As of July 27, 2009, the principal balancing remaining on Account No. 300020095001054 is approximately \$8,728.80 and the principal balance remaining on Account No. 300020095001053 is approximately \$4,584.80. Unless your client has proof of full payoff, and thus, that he has satisfied the terms of one or both notes, his quiet title claim has no basis in law or fact.

Mr. Bernstein's complaint also alleges that the notices NoteWorld sent him regarding late fees were erroneous because he has paid "on-time throughout the history of the note payments." According to our records, Mr. Bernstein failed to make the following payments:

Mr. Malcolm P. LaVigne  
October 9, 2009  
Page 2

**Account No. 300020095001053**

- September 2001
- March 2002
- July 2007

**Account No. 300020095001054**

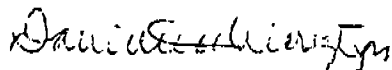
- March 2002
- July 2007

Under the terms of each Note Secured by a Deed of Trust, copies of which are attached hereto, payment is due on the first day of each month and "[i]n the event any payment is more than 15 days late, a late charge penalty of \$10.00 shall be paid." As indicated above, Account No. 300020095001053 was in arrears as of September 15, 2001 and started accruing a late penalty on September 16, 2001, and Account No. 300020095001054 was in arrears as of March 15, 2002 and started accruing a late penalty March 16, 2002. By notifying Mr. Bernstein that the accounts were accruing late penalties, NoteWorld acted consistent with the terms of the notes. If your client has some proof that payment was made on the above dates in a form of a cashed check or otherwise, please forward it to us immediately for further research. If your client has no proof, he may wish to seek a waiver of any late penalties that may be owed. To do so, however, he must contact Mr. Rodriguez directly. NoteWorld does not have the authority to waive late penalties; it is a matter between the parties. Notwithstanding the late penalty issue, even if Mr. Bernstein has proof that he made the unaccounted-for payments, the fact remains that he has not paid the notes in full and therefore, has not earned title to the properties at issue.

For the foregoing reasons, we would respectfully request that your client agree to voluntarily withdraw his Quiet Title action against NoteWorld. If he will not agree to do so voluntarily, NoteWorld will be forced to hire an attorney in Nevada to oppose the action. In that case, NoteWorld will seek judgment against Mr. Bernstein for any attorneys' fees and costs incurred to oppose his Quiet Title action and/or to defend the claims Mr. Bernstein has brought against NoteWorld.

If you would like to discuss this matter further, please feel free to call me at (253) 620-7042. In any event, I will follow-up with you early next week regarding your client's decision with respect to our request. Thank you for your anticipated cooperation.

Sincerely,



Danielle H. Kiersztyn  
General Counsel

Enclosures

ORIGINAL

FILED

NOV 09 2009

CLERK OF COURT

OPPS / 0001

MALCOLM P. LAVERGNE, ESQ.

Nevada Bar No. 10121

THE LAVERGNE LAW GROUP

320 East Charleston Boulevard, Suite 203

Las Vegas, Nevada 89104

702.448.7981 / 702.966.3117 (Facsimile)

Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK BERNSTEIN, an Individual,

Case No.

A-09-596386-C

Dept.

9

Plaintiffs,

vs.

Date and Time of Hearing:

November 24, 2009 at 9:00 a.m.

NOTEWORLD, LLC, a Foreign Limited Liability

Company; SALVADOR RODRIGUEZ, an

Individual; DOES I - X, Inclusive; and ROE

Corporations I - X, Inclusive,

Defendants.

PLAINTIFF MARK BERNSTEIN'S OPPOSITION TO DEFENDANT  
NOTEWORLD, LLC'S MOTION TO DISMISS AND COUNTERMOTION FOR  
LEAVE TO FILE AN AMENDED COMPLAINT

COMES NOW, Plaintiff MARK BERNSTEIN ("Bernstein" or "Plaintiff"), by and through his attorney of record MALCOLM P. LAVERGNE, ESQ. of THE LAVERGNE LAW GROUP, and hereby files his Opposition and Countermotion to Defendant NOTEWORLD LLC'S ("Noteworld" or "Defendant") Motion to Dismiss or, in the Alternative, Motion for Summary Judgment. Defendant further moves the Court for Leave to File an Amended Complaint.

A-09-596386-C

513649



CLERK OF THE COURT

NOV 09 2009

RECEIVED



1 This Opposition and Counter-motion are being made pursuant to the applicable statutes  
2 and case law, including NRCP 15(a), the papers and pleadings on file herein, and any  
3 argument of counsel and testimony that may be entertained at the hearing of these motions.

4 **NOTICE OF COUNTERMOTION**

5 To: NOTEWORLD, LLC, a Foreign Limited Liability Company; and  
6 To: DAVID B. SANDERS, ESQ., Attorney for Defendant

7 NOTICE IS HEREBY GIVEN that the hearing on Plaintiff's Counter-motion for Leave  
8 to File an Amended Complaint will be held in the above-entitled cause at the Eighth Judicial  
9 District Court on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 at \_\_\_\_\_ a.m./p.m. at the  
10 Regional Justice Center located at 200 Lewis Avenue, Las Vegas, Nevada 89155.

11 Dated this 6 day of November, 2009

12   
13   
14 \_\_\_\_\_  
15 Malcolm P. LaVergne, Esq.  
16 Nevada Bar No. 10121  
17 Attorney for Plaintiff  
18  
19  
20  
21  
22  
23  
24  
25

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1           11. Plaintiff filed a Complaint to Quiet Title to Real Property in this cause on or  
2 around July 30, 2009 requesting that the title to the Tonopah Property is resolved by this  
3 Court through a trial on the merits, pursuant to NRS 40.010.

4           12. On or around October 19, 2009, Defendant Noteworld filed its Motion to  
5 Dismiss or in the Alternative, Motion for Summary Judgment.

6                           ARGUMENTS AND AUTHORITIES

7           1. Pursuant to NRCP 12(b), if on a motion asserting a defense to dismiss for  
8 failure of the pleading to state a claim upon which relief can be granted, matters outside the  
9 pleading are presented to and not excluded by the court, the motion shall be treated as one for  
10 summary judgment and disposed of as provided in NRCP 56.

11           2. All parties shall be given reasonable opportunity to present all material made  
12 pertinent to such a motion by NRCP 56, when this rule is evoked pursuant to NRCP 12(b)(5).

13           3. Summary judgment is only proper "if the pleadings, depositions, answers to  
14 interrogatories, and admissions on file, together with the affidavits, if any, show that there is  
15 no genuine issue as to any material fact and that the moving party is entitled to a judgment as  
16 a matter of law." *Celotex v. Caltrett*, 477 U.S. 317, 322 (1986).

17           4. The evidence of the non moving party is to be believed, and all justifiable  
18 inferences are to be drawn in his favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255  
19 (1986).

20           5. The entry of summary judgment is mandated only after adequate time for  
21 discovery, against a party who fails to make a showing sufficient to establish the existence of  
22 an element essential to that party's case. *Celotex v. Caltrett*, 477 U.S. 317, 322 (1986).

23           6. In the present cause, no discovery has been conducted, and an Early Case  
24 Conference has not been held.

25           7. In fact, only a Complaint and a responsive pleading have been filed.

1           8. Defendant asserts in its Motion that "Noteworld makes no claim to possession  
2 or interest to the property."

3           13. However, Defendant Noteworld persistently and erroneously began sending  
4 Plaintiff notices, starting in around 2008 that assert late fees dating back from January 10,  
5 2000.

6           9. Defendant is the only entity attempting to collect the alleged late fees from  
7 Plaintiff, and Defendant has been unwilling to provide any contact information for the  
8 alleged deed holder, Defendant Salvador Rodriguez.

9           10. Sufficient discovery has not been conducted for Plaintiff to determine the  
10 actual entities that have a claim to possession or interest to the Tonopah Property.

11           11. Furthermore, as part of this pleading and pursuant to NRCP 15(a), Defendant  
12 now files a Motion for Leave to File a Counterclaim.

13           12. Plaintiff seeks to amend his Complaint after conducting further research and  
14 investigation since the time of filing the Complaint.

15           13. Plaintiff now alleges that Defendant Noteworld violated certain provisions of  
16 the Nevada Revised Statutes and provisions of the United States Code with regard to  
17 Defendant's servicing of the mortgage loans on the Tonopah Property.

18           14. Therefore, Plaintiff's Motion should be denied in its entirety.

19       ///

20       ///

21       ///



**COUNTERMOTION FOR LEAVE TO FILE PLAINTIFF'S  
FIRST AMENDED COMPLAINT**

COMES NOW, Plaintiff MARK BERNSTEIN ("Bernstein" or "Plaintiff"), by and through his attorney of record MALCOLM P. LAVERGNE, ESQ. of the LAVERGNE LAW GROUP, and hereby files his Countermotion for Leave to File an Amended Complaint.

This Countermotion is made pursuant to the applicable statutes and case law, including NRCP 15(a), the papers and pleadings on file herein, and any arguments of counsel and testimony that may be entertained at the hearing of these motions.

**ARGUMENTS AND AUTHORITIES**

1. NRCP 15(a) specifically states that "a party may amend the party's pleading only by leave of court or by written consent of the adverse party; *and leave shall be freely given when justice so requires.*" (Emphasis added).

2. Absent undue delay, bad faith or dilatory motive on the part of the movant -- the leave to amend should be freely given. *Stephens v. Southern Nev. Music Co.*, 89 Nev. 104, 507 P.2d 138 (1973).

3. In fact, a motion to amend may be made orally in open court in the presence of counsel for the adverse party. *Weiler v. Ross*, 80 Nev. 380, 395 P.2d 323 (1964).

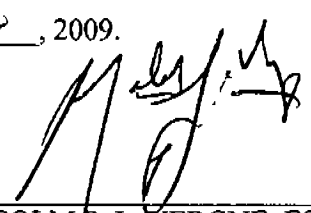
4. Here, no undue delay, bad faith or dilatory motives exist in making this Motion for Leave.

5. This Countermotion is made in good faith based on the additional information received and reviewed since the filing of the Complaint and upon further consideration in this matter.

1           6. Specifically, upon further investigation and consideration in this matter,  
2 Plaintiff's First Amended Complaint will include certain NRS and USC violations against  
3 Defendant Noteworld.

4           7. Attached hereto and incorporated for all purposes as Exhibit "1" is a proposed  
5 copy of Plaintiff's First Amended Complaint.

6           Dated this 6 day of November, 2009.

7   
8  
9 MALCOLM P. LAVERGNE, ESQ.  
10 Nevada Bar No. 10121  
11 THE LAVERGNE LAW GROUP  
12 320 East Charleston Boulevard, Suite 203  
13 Las Vegas, Nevada 89104  
14 702.448.7981 / 702.966.3117 (Facsimile)  
15 Attorney for Plaintiffs

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**CERTIFICATE OF SERVICE**

Malcolm P. LaVergne, Esq., attorney for Plaintiff MARK BERNSTEIN, hereby  
certifies that on the 6 day of November, 2009, I mailed a true and correct  
copy of the Plaintiff's Opposition and Countermotion for Leave to File an Amended  
Complaint by depositing the document in a sealed envelope in the United States mail, first-  
class postage prepaid, addressed as follows:

DAVID B. SANDERS, ESQ.  
THE COOPER CASTLE LAW FIRM, LLP  
820 South Valley View Boulevard  
Las Vegas, Nevada 89107

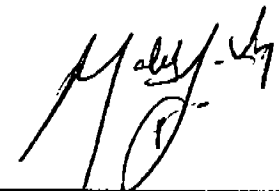
  
Malcolm P. LaVergne, Esq.

Exhibit “1”

1 **ACOM**  
 2 MALCOLM P. LAVERGNE, ESQ.  
 Nevada Bar No. 10121  
 3 **THE LAVERGNE LAW GROUP**  
 320 East Charleston Boulevard, Suite 203  
 Las Vegas, Nevada 89104  
 4 702.448.7981 / 702.966.3117 (Facsimile)  
 Attorney for Plaintiff

DISTRICT COURT  
 CLARK COUNTY, NEVADA

7 MARK BERNSTEIN, an Individual,	)	Case No.
	)	Dept.
8 Plaintiffs,	)	
	)	<b>Exempt From Arbitration</b>
9 vs.	)	<b>(Title to Real Estate)</b>
	)	
10 NOTEWORLD, LLC, a Foreign Limited Liability	)	
11 Company; SALVADOR RODRIGUEZ, an	)	
Individual; DOES I – X, Inclusive; and ROE	)	
12 Corporations I – X, Inclusive,	)	
	)	
13 Defendants.	)	

14  
 15 **PLAINTIFF'S FIRST AMENDED COMPLAINT TO QUIET TITLE TO REAL**  
 16 **PROPERTY AND FOR DAMAGES**

17 COMES NOW, Plaintiff MARK BERNSTEIN ("Plaintiff" or "Bernstein"), by and  
 18 through his attorney MALCOLM P. LAVERGNE, of THE LAVERGNE LAW GROUP, and  
 19 for his First Amended Complaint to Quiet Title to Real Property and for Damages against  
 Defendants, alleges the following:

20 1. At all relevant times, Plaintiff MARK BERNSTEIN was and is a resident of  
 21 the State of Nevada, County of Clark, and is the owner in fee simple of the property located  
 22 at 2517 East Tonopah Avenue, Las Vegas, Nevada 89030 ("Tonopah Property").

23 2. At all relevant times, Defendant NOTEWORLD, LLC was and is a Foreign  
 24 Limited Liability Company doing business in the State of Nevada, County of Clark.  
 25

1           3.     At all relevant times, Defendant SALVADOR RODRIGUEZ was and is a  
2     resident of Santa Barbara, California and lives at 1004 Cima Linda Lane, Santa Barbara,  
3     California, 93108.

4           4.     Upon information and belief, Defendants DOES I – X are individuals or  
5     entities involved in the conduct alleged herein; that Plaintiff has been unable to ascertain the  
6     identities of these individuals or entities and, therefore, sues them under fictitious names; that  
7     when their true identities are known, Plaintiff will expeditiously seek leave to amend the  
8     Complaint with the true identities.

9           5.     Upon information and belief, Defendants ROE Corporations I – X are  
10    involved in the conduct alleged herein; that Plaintiff has been unable to ascertain the  
11    identities of these corporations and, therefore, sues them under fictitious names; that when  
12    their true identities are known, Plaintiff will expeditiously seek leave to amend the Complaint  
13    with the true identities.

14          6.     On or around July 1, 1980 Plaintiff became the owner in fee simple of the  
15    Tonopah Property.

16          7.     On or around July 1, 1980, Plaintiff secured a note by deed of trust with  
17    Sycamore Properties in the amount of \$9,140.98.

18          8.     On or around July 1, 1980, Plaintiff additionally secured a note by deed of  
19    trust with Sycamore Properties in the amount of \$4,600.00.

20          9.     In or around 2001, Sycamore Properties became a defunct company in the  
21    State of Nevada.

22          10.    On or around June 22, 1994, the deeds of trust related to both notes passed to  
23    Defendant Salvador Rodriguez.

24          11.    The notes on the Tonopah Property are serviced by Defendant Noteworld.  
25

1           12.    The note for \$9,140.98 is known to Defendant Noteworld as Account No.  
2   300020095001053.

3           13.    The note for \$4,600 is known to Defendant Noteworld as Account No.  
4   300020095001054.

5           14.    In or around 2004, Plaintiff became sole owner of the Tonopah Property.

6           15.    In around April 2008, Plaintiff completed his payments and was paid in full on  
7   both notes, Account No. 300020095001053 and Account No. 300020095001054.

8           16.    Mr. Bernstein made his payments to Defendant Noteworld rigorously and on-  
9   time throughout the history of the note payments.

10          17.    In or around 2008, Defendant Noteworld began sending Plaintiff notices of  
11   late fees that dates back to January 10, 2000.

12          18.    Defendant Noteworld never informed Plaintiff his payments were allegedly  
13   late and that late fees were accruing from on or around January 10, 2000 to the present until  
14   in or around 2008.

15  
16                           FIRST CAUSE OF ACTION  
17                           (Quiet Title Pursuant to NRS 40.010)

18          19.    Plaintiff repeats and re-alleges each and every allegation contained in  
19   paragraphs "1" through "18" as if fully set forth herein. Plaintiff further alleges:

20          20.    Plaintiff has been the owner in fee simple of the Tonopah Property since on or  
21   around July 1, 1980.

22          21.    On or around July 1, 1980, Plaintiff secured a note by deed of trust with  
23   Sycamore Properties in the amount of \$9,140.98.

24          22.    On or around July 1, 1980, Plaintiff additionally secured a note by deed of  
25   trust with Sycamore Properties in the amount of \$4,600.00.

1           23.     In around April 2008, Plaintiff completed his payments and was paid in full on  
2 both notes.

3           24.     Plaintiff requests that the titles to both real properties are resolved by this  
4 court through a trial on the merits, pursuant to NRS 40.010.

5           25.     Plaintiff has been required to retain an attorney to represent him for this  
6 action, and, therefore, Plaintiff is entitled to his reasonable attorney's fees from Defendants.

7                               SECOND CAUSE OF ACTION

8                               (Violation of 15 USC 1692(e) against Defendant Noteworld)

9           26.     Plaintiff repeats and re-alleges each and every allegation contained in  
10 paragraphs "1" through "25" as if fully set forth herein. Plaintiff further alleges:

11           27.     In around April 2008, Plaintiff completed his payments and was paid in full on  
12 both notes, Account No. 300020095001053 and Account No. 300020095001054.

13           28.     Mr. Bernstein made his payments to Defendant Noteworld rigorously and on-  
14 time throughout the history of the note payments.

15           29.     In or around 2008, Defendant Noteworld began sending Plaintiff notices of  
16 late fees that dates back to January 10, 2000.

17           30.     Defendant Noteworld never informed Plaintiff his payments were allegedly  
18 late and that late fees were accruing from on or around January 10, 2000 to the present until  
19 in or around 2008.

20           31.     Defendant Noteworld made false representations about the character, amount  
21 and/or legal status of the alleged debt.

22           32.     Plaintiff has been damaged in an amount in excess of \$10,000.00 of the result  
23 of Defendant's violation of 15 USC 1692(e).  
24  
25

1           33. Plaintiff has been required to retain an attorney to represent him for this  
2 action, and, therefore, Plaintiff is entitled to his reasonable attorney's fees from Defendants.

3                               SECOND CAUSE OF ACTION

4                               (Violation of 15 USC 1692(f) against Defendant Noteworld)

5           34. Plaintiff repeats and re-alleges each and every allegation contained in  
6 paragraphs "1" through "33" as if fully set forth herein. Plaintiff further alleges:

7           35. In around April 2008, Plaintiff completed his payments and was paid in full on  
8 both notes, Account No. 300020095001053 and Account No. 300020095001054.

9           36. Mr. Bernstein made his payments to Defendant Noteworld rigorously and on-  
10 time throughout the history of the note payments.

11           37. In or around 2008, Defendant Noteworld began sending Plaintiff notices of  
12 late fees that dates back to January 10, 2000.

13           38. Defendant Noteworld never informed Plaintiff his payments were allegedly  
14 late and that late fees were accruing from on or around January 10, 2000 to the present until  
15 in or around 2008.

16           39. Defendant Noteworld collected alleged late fees on several occasions from  
17 Plaintiff which were not expressly authorized by any agreement or permitted by law.

18           40. Plaintiff has been damaged in an amount in excess of \$10,000.00 of the result  
19 of Defendant's violation of 15 USC 1692(f).

20           41. Plaintiff has been required to retain an attorney to represent him for this  
21 action, and, therefore, Plaintiff is entitled to his reasonable attorney's fees from Defendants.

22                               THIRD CAUSE OF ACTION

23                               (Violation of NRS 598.0915 against Defendant Noteworld)

24           42. Plaintiff repeats and re-alleges each and every allegation contained in  
25 paragraphs "1" through "41" as if fully set forth herein. Plaintiff further alleges:



1           43. In around April 2008, Plaintiff completed his payments and was paid in full on  
2 both notes, Account No. 300020095001053 and Account No. 300020095001054.

3           44. Mr. Bernstein made his payments to Defendant Noteworld rigorously and on-  
4 time throughout the history of the note payments.

5           45. In or around 2008, Defendant Noteworld began sending Plaintiff notices of  
6 late fees that dates back to January 10, 2000.

7           46. Defendant Noteworld never informed Plaintiff his payments were allegedly  
8 late and that late fees were accruing from on or around January 10, 2000 to the present until  
9 in or around 2008.

10           47. Defendant Noteworld attempted to collect alleged late fees on several  
11 occasions that were not permitted by law or authorized by Plaintiff.

12           48. Defendant Noteworld collected alleged late fees on several occasions from  
13 Plaintiff that were not permitted by law or authorized by Plaintiff.

14           49. Plaintiff has been damaged in an amount in excess of \$10,000.00 of the result  
15 of Defendant's actions.

16           50. Plaintiff has been required to retain an attorney to represent him for this  
17 action, and, therefore, Plaintiff is entitled to his reasonable attorney's fees from Defendants.  
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1 WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

- 2 1. That the Court grant Plaintiff's relief on all causes of action;
- 3 2. For compensatory damages in excess of \$10,000.00 as alleged;
- 4 3. That the Defendants pay Plaintiff's reasonable attorney's fees; and
- 5 4. For any such further additional relief as the Court may deem just and proper.

6 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

7

8

9 MALCOLM P. LAVERGNE, ESQ.

10 Nevada Bar No. 10121

11 THE LAVERGNE LAW GROUP

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13 Las Vegas, Nevada 89104

14 702.448.7981 / 702.966.3117 (Facsimile)

15 Attorneys for Plaintiff

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